

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



June 1, 1983

ALL-COUNTY LETTER NO. 83-47

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: GREEN v. OBLEDO

On March 5, 1981, the California Supreme Court issued an opinion in the case of Green v. Obledo. That opinion declared former EAS Section 44-113.231 (repealed effective November 10, 1981) in violation of the federal regulations then in effect because the state regulations failed to allow as deductions from earnings when computing the AFDC grant actual work-related expenses reasonably attributable to employment.

The Sacramento County Superior Court issued a judgment invalidating Section 44-113.241 to the extent this regulation disallowed both actual expenses of using a private automobile as transportation to and from work and other expenses reasonably attributable to employment. The court ordered retroactive benefits for recipients or former recipients who were disallowed such actual work-related expenses under Section 44-113.241. The time period for retroactive benefits under the Superior Court order is January 1, 1974 through November 9, 1981. The Department is currently developing regulations to implement the award of retroactive benefits.

Since the order invalidating Section 44-113.241, it has been the policy of the Department that when computing an overpayment which may have occurred during the time Section 44-133.241 was in effect, the grant to which a recipient was entitled was to be computed using that regulation. A recipient's entitlement to retroactive benefits was to be determined through the process provided in the regulations implementing the award of retroactive benefits once they became effective. This approach was taken because the Department had not yet developed the policies necessary to determine actual work-related expenses reasonably attributable to employment.

However, the Sacramento Superior Court ruled on January 27, 1983, that the policy of the Department to allow computation of overpayments under the regulation invalidated by the court constituted noncompliance with the court's previous order.

You are instructed to comply with the court's order concerning computation of overpayments by allowing actual work-related expenses reasonably attributable to employment. The following procedures are effective immediately and are to be used when computing the amount of an overpayment in the cases described below. Detailed instructions are attached (Attachment I).

Potentially affected cases are those in which the overpayment occurred between January 1974 and November 1981 and earned income was received in a month(s) when the overpayment occurred.

When an overpayment has been discovered for a potentially affected case, the county must advise the recipient or former recipient in writing of the following:

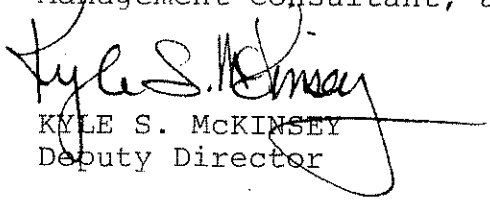
- An overpayment has been discovered in the case.
- The month/year or months/year in which the overpayment occurred must be addressed.
- Because of a court case, actual work-related expenses can be considered when the overpayment is computed.
- In order for the actual work-related expenses (e.g., car payment, car insurance) to be considered, additional information and proof of expenses, if reasonably available, is necessary.
- The information sheet to be used by the recipient or former recipient to report the additional information must be attached or information included as to how to obtain the information sheet. Attachment II is provided for your use in developing a form to obtain information on actual work-related costs. Counties may modify the questions or add questions if necessary upon SDSS approval. The recipient or former recipient must sign the form.
- The timeframe for submitting the required information and documentation must be listed. The timeframe must be at least 30 days.

If the information is not received by the date set by the county, the county will compute the overpayment without the application of actual work-related expenses; instead, the provisions of former EAS 44-113.241 will be applied.

If the recipient submits the required information and adequate documentation within the required timeframe, the overpayment will be computed using allowable actual work-related expenses (see Attachment I for the method of computation). The Notice of Action (NOA) sent the recipient explaining the amount of the overpayment must state that the overpayment was computed using actual work-related expenses and list the amount of work-related expenses allowed, those disallowed and why disallowed; e.g., cost of car insurance not allowed because proof of the expense was not provided and good reason did not exist for lack of verification.

The order in Green requires that statistics be collected regarding the number of claims filed, those allowed and disallowed and total dollars paid. Counties are to report this information on the attached form (Attachment III) and submit the information to the State Department of Social Services (SDSS) along with other information which will be required when the retroactive regulations implementing the Green order become effective. It is anticipated that the retroactive regulations will become effective in October 1983.

If there are questions, please contact your AFDC Program Operations Management Consultant, at (916) 445-4458.



KYLE S. MCKINSEY
Deputy Director

Attachments

INSTRUCTIONS FOR DETERMINATION
OF ACTUAL WORK-RELATED EXPENSES

- I. Determination of total allowable work-related expenses incurred or paid by the claimant during the budget month.
 - A. Types of allowable expenses include, but are not limited to:
 1. Transportation expenses:
 - a. Reasonable amounts for gas, tires, oil
 - b. Car payments (principal and interest)
 - c. Car insurance; license and registration fees
 - d. Mechanical repairs
 - e. Repairs or replacement, if directly related to safety (e.g., windshield replacement)
 - f. Actual costs for riding in a carpool
 2. Other work-related expenses such as uniforms, special equipment necessary for employment but not supplied or reimbursed by the employer, etc.
 - B. With the exception of gas and oil, all expenses must be verified to the extent possible.
 1. Verification includes, but is not limited to:
 - a. Cancelled checks, money order receipts
 - b. Receipts
 - c. Photocopies of statements
 - d. Signed statement from a vendor attesting to type of expense, amount and date of payment, and purchaser's name.
 2. If proof is not provided, the claimant is required to explain the method used to obtain such proof and why it is unavailable. The county will then determine if there is good reason for lack of verification.
 - a. If good reason exists, the claimant's sworn statement as to expenses incurred or paid will be accepted.
 1. Good reason includes, but is not limited to:

- (a) Destruction of the vendor's records by natural disaster or due to the passage of retention dates.
 - (b) Permanent closure of the vendor's business.
 - (c) Refusal of the vendor to supply verification.
- b. If acceptable verification has not been provided and good reason does not exist, the costs for such items shall not be allowed. An example of the absence of good reason is the claimant's assertion that he/she does not remember to whom the bill was paid and the city in which the vendor's company operated.

I. Computation of the Net Allowable Work-Related Expenses

A. Compute the net allowable work-related transportation expenses as follows:

1. Determine the total allowable transportation expenses (see Section I).
2. Determine the percentage of work-related miles to total miles driven in the budget month (work-related mileage is to be obtained from the case record and total mileage is to be obtained from the questionnaire sent the recipient).

If the claimant indicates on the questionnaire that the work-related mileage driven during the budget month was unusually low, the county must examine the reason(s) for the unusual mileage.

- (a) If the work-related mileage dropped due to the unavailability of the claimant's car (e.g., car in the shop for a few days, car stolen) then the usual mileage listed in Part III, E of the claim form will be used.
- (b) If the decrease in work-related mileage is due to other factors such as vacation taken during the claim month, a change in the location of the job site or the obtaining of a different job, the actual work-related mileage driven as listed in Part IV, E of the claim form is to be used.

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3. Apply the percentage in 2. above to the total allowable transportation expenses in 1. above.
 4. Subtract any contribution made by others for work-related transportation and any amounts reimbursed by the employer to obtain the net allowable transportation in costs.
- B. Determine other net allowable work-related expenses in the following manner:
1. Determine the total allowable other work-related expenses (See Section I).
 2. Subtract any contribution or reimbursement made by the employer to obtain the other net allowable work-related expenses.
- C. The net allowable work-related expenses is the sum of A, 4. and B, 2. above.
- III. The net allowable work-related expenses will be used to compute the overpayment in the case.
- A. If use of actual work-related expenses creates an underpayment, the county shall issue an underpayment adjustment, which will be classified as a retroactive payment under the case of Green v. Obledo.
- B. Interest will be computed on the amount of the retroactive payment in A. above in the following manner:
- (a) Interest for each retroactive payment the claimant should receive is computed from the date the payment should have been paid originally. The interest rate is seven percent annually.
 - (b) The interest is to be computed up to the date that the retroactive payment is made. Partial month computations are to be made on the basis of a 360-day year.
 - (c) Example: Claim Month: 6/75 Aid Month: 8/1/75
Retroactive Payment Amount: \$100
Retroactive Payment Date: 10/10/83

August 1, 1974 Retroactive Payment: \$100 Interest Rate: 7% Per Year

8/01/75 - 7/31/83 = 8 years 7% x \$100 x 8 years = \$56.00

8/01/83 - 9/30/83 = 2 months 7% x \$100 x 2/12 = 1.16

10/01/83 - 10/10/83 = 10 days 7% x \$100 x 10/360 = .19

Interest on 8/01/75 retroactive payment \$57.35

The AFDC grant you received in _____ was in error.
(month/year)

The following questions concern your work-related costs and other information in _____ (budget month).
(months/year)

1. Indicate actual transportation costs below; i.e., gasoline, car repair, etc. (Proof must be attached, if available, for all costs, with the exception of gasoline and oil.)

2. Other work-related costs; i.e., uniforms, special equipment, etc. (attach proof):

<u>Type</u>	<u>Date Paid</u>	<u>Amount Paid</u>	<u>To Whom Paid</u>	<u>Address</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

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3. If proof is not available for any of the above costs, explain below:

Type	Reason Proof Unavailable	What did you do to get proof
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. Was the number of miles you drove to and from work in the month similar to the amount you usually drove?

☐

Yes

☐

No

If no:

- Why did you have less work-related mileage?
- What was the usual number of work-related miles driven?

5. List the total miles that were driven by persons in the FBU in the month.

Name	Total Number of Miles Driven (including to and from work)
_____	_____
_____	_____
_____	_____
_____	_____

I declare, under penalty of perjury, that the above statements are true and correct.

Name: _____

Address: _____

Phone Number: _____

STATISTICAL REPORT FORM

GREEN v. OBLEDO

County	Person Completing Form	Title	Date
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I. Potential Claimants

(Number of persons who were notified
that their overpayment could be computed
using actual work-related expenses.)

II. Claims Filed

(Number of potential claimants
requesting consideration of actual
work-related costs in the computation
of the overpayment).

a. Number of claims allowed

b. Number of claims disallowed

III. Total Dollars Paid

(Dollar reduction in overpayment due
to consideration of actual work-related
costs or dollars paid to recipient in
interest and retroactive benefit if
consideration of actual work-related costs
creates an underpayment.)

a. Dollar reduction in overpayment

b. Dollars paid in retroactive
benefit if underpayment created

c. Dollars paid in interest on
III (b) above.
